

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing  
5 Sections 18A-5, 18A-15, 23-15.1, 24C-2, and 24C-12 and by  
6 adding Section 24C-2.5 as follows:

7 (10 ILCS 5/18A-5)

8 (Text of Section before amendment by P.A. 93-1071)

9 Sec. 18A-5. Provisional voting; general provisions.

10 (a) A person who claims to be a registered voter is  
11 entitled to cast a provisional ballot under the following  
12 circumstances:

13 (1) The person's name does not appear on the official  
14 list of eligible voters, whether a list of active or  
15 inactive voters, for the precinct in which the person seeks  
16 to vote;

17 (2) The person's voting status has been challenged by  
18 an election judge, a pollwatcher, or any legal voter and  
19 that challenge has been sustained by a majority of the  
20 election judges; ~~or~~

21 (3) A federal or State court order extends the time for  
22 closing the polls beyond the time period established by  
23 State law and the person votes during the extended time  
24 period; ~~or~~

25 (4) The voter registered to vote by mail and is  
26 required by law to present identification when voting  
27 either in person or by absentee ballot, but fails to do so.

28 (b) The procedure for obtaining and casting a provisional  
29 ballot at the polling place shall be as follows:

30 (1) After first verifying through an examination of the  
31 precinct register that the person's address is within the  
32 precinct boundaries, an ~~An~~ election judge at the polling

1 place shall notify a person who is entitled to cast a  
 2 provisional ballot pursuant to subsection (a) that he or  
 3 she may cast a provisional ballot in that election. An  
 4 election judge must accept any information provided by a  
 5 person who casts a provisional ballot that the person  
 6 believes supports his or her claim that he or she is a duly  
 7 registered voter and qualified to vote in the election.  
 8 However, if the person's residence address is outside the  
 9 precinct boundaries, the election judge shall inform the  
 10 person of that fact, give the person the appropriate  
 11 telephone number of the election authority in order to  
 12 locate the polling place assigned to serve that address,  
 13 and instruct the person to go to the proper polling place  
 14 to vote.

15 (2) The person shall execute a written form provided by  
 16 the election judge that shall state or contain all of the  
 17 following that is available:

18 (i) an affidavit stating the following:

19 State of Illinois, County of .....,  
 20 Township ....., Precinct ....., Ward  
 21 ....., I, ....., do solemnly  
 22 swear (or affirm) that: I am a citizen of the United  
 23 States; I am 18 years of age or older; I have resided  
 24 in this State and in this precinct for 30 days  
 25 preceding this election; I have not voted in this  
 26 election; I am a duly registered voter in every  
 27 respect; and I am eligible to vote in this election.  
 28 Signature ..... Printed Name of Voter ..... Printed  
 29 Residence Address of Voter ..... City ..... State  
 30 .... Zip Code ..... Telephone Number ..... Date of  
 31 Birth ..... and Driver's License Number ..... or  
 32 Last 4 digits of Social Security Number ..... or State  
 33 Identification Card Number issued to you by the  
 34 Illinois Secretary of State.....

35 ~~(ii) Written instruction stating the following:~~

36 ~~In order to expedite the verification of your voter~~

1 ~~registration status, the .... (insert name of county~~  
2 ~~clerk of board of election commissioners here)~~  
3 ~~requests that you include your phone number and both~~  
4 ~~the last four digits of your social security number and~~  
5 ~~your driver's license number or State Identification~~  
6 ~~Card Number issued to you by the Secretary of State. At~~  
7 ~~minimum, you are required to include either (A) your~~  
8 ~~driver's license number or State Identification Card~~  
9 ~~Number issued to you by the Secretary of State or (B)~~  
10 ~~the last 4 digits of your social security number.~~

11 (ii) ~~(iii)~~ A box for the election judge to check one of  
12 the 4 ~~3~~ reasons why the person was given a provisional  
13 ballot under subsection (a) of Section 18A-5.

14 (iii) ~~(iv)~~ An area for the election judge to affix his  
15 or her signature and to set forth any facts that support or  
16 oppose the allegation that the person is not qualified to  
17 vote in the precinct in which the person is seeking to  
18 vote.

19 The written affidavit form described in this subsection  
20 (b) (2) must be printed on a multi-part form prescribed by the  
21 county clerk or board of election commissioners, as the case  
22 may be.

23 (3) After the person executes the portion of the written  
24 affidavit described in subsection (b) (2) (i) of this Section,  
25 the election judge shall complete the portion of the written  
26 affidavit described in subsection (b) (2) (iii) and (b) (2) (iv).

27 (4) The election judge shall give a copy of the completed  
28 written affidavit to the person. The election judge shall place  
29 the original written affidavit in a self-adhesive clear plastic  
30 packing list envelope that must be attached to a separate  
31 envelope marked as a "provisional ballot envelope". The  
32 election judge shall also place any information provided by the  
33 person who casts a provisional ballot in the clear plastic  
34 packing list envelope. Each county clerk or board of election  
35 commissioners, as the case may be, must design, obtain or  
36 procure self-adhesive clear plastic packing list envelopes and

1 provisional ballot envelopes that are suitable for  
2 implementing this subsection (b)(4) of this Section.

3 (5) The election judge shall provide the person with a  
4 provisional ballot, written instructions for casting a  
5 provisional ballot, and the provisional ballot envelope with  
6 the clear plastic packing list envelope affixed to it, which  
7 contains the person's original written affidavit and, if any,  
8 information provided by the provisional voter to support his or  
9 her claim that he or she is a duly registered voter. An  
10 election judge must also give the person written information  
11 that states that any person who casts a provisional ballot  
12 shall be able to ascertain, pursuant to guidelines established  
13 by the State Board of Elections, whether the provisional vote  
14 was counted in the official canvass of votes for that election  
15 and, if the provisional vote was not counted, the reason that  
16 the vote was not counted.

17 (6) After the person has completed marking his or her  
18 provisional ballot, he or she shall place the marked ballot  
19 inside of the provisional ballot envelope, close and seal the  
20 envelope, and return the envelope to an election judge, who  
21 shall then deposit the sealed provisional ballot envelope into  
22 a securable container separately identified and utilized for  
23 containing sealed provisional ballot envelopes. Ballots that  
24 are provisional because they are cast after 7:00 p.m. by court  
25 order shall be kept separate from other provisional ballots.  
26 Upon the closing of the polls, the securable container shall be  
27 sealed with filament tape provided for that purpose, which  
28 shall be wrapped around the box lengthwise and crosswise, at  
29 least twice each way, and each of the election judges shall  
30 sign the seal.

31 (c) Instead of the affidavit form described in subsection  
32 (b), the county clerk or board of election commissioners, as  
33 the case may be, may design and use a multi-part affidavit form  
34 that is imprinted upon or attached to the provisional ballot  
35 envelope described in subsection (b). If a county clerk or  
36 board of election commissioners elects to design and use its

1 own multi-part affidavit form, then the county clerk or board  
2 of election commissioners shall establish a mechanism for  
3 accepting any information the provisional voter has supplied to  
4 the election judge to support his or her claim that he or she  
5 is a duly registered voter. In all other respects, a county  
6 clerk or board of election commissioners shall establish  
7 procedures consistent with subsection (b).

8 (d) The county clerk or board of election commissioners, as  
9 the case may be, shall use the completed affidavit form  
10 described in subsection (b) to update the person's voter  
11 registration information in the State voter registration  
12 database and voter registration database of the county clerk or  
13 board of election commissioners, as the case may be. If a  
14 person is later determined not to be a registered voter based  
15 on Section 18A-15 of this Code, then the affidavit shall be  
16 processed by the county clerk or board of election  
17 commissioners, as the case may be, as a voter registration  
18 application.

19 (Source: P.A. 93-574, eff. 8-21-03.)

20 (Text of Section after amendment by P.A. 93-1071)

21 Sec. 18A-5. Provisional voting; general provisions.

22 (a) A person who claims to be a registered voter is  
23 entitled to cast a provisional ballot under the following  
24 circumstances:

25 (1) The person's name does not appear on the official  
26 list of eligible voters for the precinct in which the  
27 person seeks to vote. The official list is the centralized  
28 statewide voter registration list established and  
29 maintained in accordance with Section 1A-25;

30 (2) The person's voting status has been challenged by  
31 an election judge, a pollwatcher, or any legal voter and  
32 that challenge has been sustained by a majority of the  
33 election judges; ~~or~~

34 (3) A federal or State court order extends the time for  
35 closing the polls beyond the time period established by

1 State law and the person votes during the extended time  
2 period; ~~or~~

3 (4) The voter registered to vote by mail and is  
4 required by law to present identification when voting  
5 either in person or by absentee ballot, but fails to do so.

6 (b) The procedure for obtaining and casting a provisional  
7 ballot at the polling place shall be as follows:

8 (1) After first verifying through an examination of the  
9 precinct register that the person's address is within the  
10 precinct boundaries, an ~~An~~ election judge at the polling  
11 place shall notify a person who is entitled to cast a  
12 provisional ballot pursuant to subsection (a) that he or  
13 she may cast a provisional ballot in that election. An  
14 election judge must accept any information provided by a  
15 person who casts a provisional ballot that the person  
16 believes supports his or her claim that he or she is a duly  
17 registered voter and qualified to vote in the election.  
18 However, if the person's residence address is outside the  
19 precinct boundaries, the election judge shall inform the  
20 person of that fact, give the person the appropriate  
21 telephone number of the election authority in order to  
22 locate the polling place assigned to serve that address,  
23 and instruct the person to go to the proper polling place  
24 to vote.

25 (2) The person shall execute a written form provided by  
26 the election judge that shall state or contain all of the  
27 following that is available:

28 (i) an affidavit stating the following:  
29 State of Illinois, County of .....,  
30 Township ....., Precinct ....., Ward  
31 ....., I, ....., do solemnly  
32 swear (or affirm) that: I am a citizen of the United  
33 States; I am 18 years of age or older; I have resided  
34 in this State and in this precinct for 30 days  
35 preceding this election; I have not voted in this  
36 election; I am a duly registered voter in every

1           respect; and I am eligible to vote in this election.  
 2           Signature ..... Printed Name of Voter ..... Printed  
 3           Residence Address of Voter ..... City ..... State  
 4           ..... Zip Code ..... Telephone Number ..... Date of  
 5           Birth ..... and Driver's License Number ..... or  
 6           Last 4 digits of Social Security Number ..... or State  
 7           Identification Card Number issued to you by the  
 8           Illinois Secretary of State.....

9           ~~(ii) Written instruction stating the following:~~

10           ~~In order to expedite the verification of your voter~~  
 11           ~~registration status, the .... (insert name of county~~  
 12           ~~clerk of board of election commissioners here)~~  
 13           ~~requests that you include your phone number and both~~  
 14           ~~the last four digits of your social security number and~~  
 15           ~~your driver's license number or State Identification~~  
 16           ~~Card Number issued to you by the Secretary of State. At~~  
 17           ~~minimum, you are required to include either (A) your~~  
 18           ~~driver's license number or State Identification Card~~  
 19           ~~Number issued to you by the Secretary of State or (B)~~  
 20           ~~the last 4 digits of your social security number.~~

21           (ii) ~~(iii)~~ A box for the election judge to check one of  
 22           the 4 ~~3~~ reasons why the person was given a provisional  
 23           ballot under subsection (a) of Section 18A-5.

24           (iii) ~~(iv)~~ An area for the election judge to affix his  
 25           or her signature and to set forth any facts that support or  
 26           oppose the allegation that the person is not qualified to  
 27           vote in the precinct in which the person is seeking to  
 28           vote.

29           The written affidavit form described in this subsection  
 30           (b) (2) must be printed on a multi-part form prescribed by the  
 31           county clerk or board of election commissioners, as the case  
 32           may be.

33           (3) After the person executes the portion of the written  
 34           affidavit described in subsection (b) (2) (i) of this Section,  
 35           the election judge shall complete the portion of the written  
 36           affidavit described in subsection (b) (2) (iii) and (b) (2) (iv).

1           (4) The election judge shall give a copy of the completed  
2 written affidavit to the person. The election judge shall place  
3 the original written affidavit in a self-adhesive clear plastic  
4 packing list envelope that must be attached to a separate  
5 envelope marked as a "provisional ballot envelope". The  
6 election judge shall also place any information provided by the  
7 person who casts a provisional ballot in the clear plastic  
8 packing list envelope. Each county clerk or board of election  
9 commissioners, as the case may be, must design, obtain or  
10 procure self-adhesive clear plastic packing list envelopes and  
11 provisional ballot envelopes that are suitable for  
12 implementing this subsection (b) (4) of this Section.

13           (5) The election judge shall provide the person with a  
14 provisional ballot, written instructions for casting a  
15 provisional ballot, and the provisional ballot envelope with  
16 the clear plastic packing list envelope affixed to it, which  
17 contains the person's original written affidavit and, if any,  
18 information provided by the provisional voter to support his or  
19 her claim that he or she is a duly registered voter. An  
20 election judge must also give the person written information  
21 that states that any person who casts a provisional ballot  
22 shall be able to ascertain, pursuant to guidelines established  
23 by the State Board of Elections, whether the provisional vote  
24 was counted in the official canvass of votes for that election  
25 and, if the provisional vote was not counted, the reason that  
26 the vote was not counted.

27           (6) After the person has completed marking his or her  
28 provisional ballot, he or she shall place the marked ballot  
29 inside of the provisional ballot envelope, close and seal the  
30 envelope, and return the envelope to an election judge, who  
31 shall then deposit the sealed provisional ballot envelope into  
32 a securable container separately identified and utilized for  
33 containing sealed provisional ballot envelopes. Ballots that  
34 are provisional because they are cast after 7:00 p.m. by court  
35 order shall be kept separate from other provisional ballots.  
36 Upon the closing of the polls, the securable container shall be

1 sealed with filament tape provided for that purpose, which  
2 shall be wrapped around the box lengthwise and crosswise, at  
3 least twice each way, and each of the election judges shall  
4 sign the seal.

5 (c) Instead of the affidavit form described in subsection  
6 (b), the county clerk or board of election commissioners, as  
7 the case may be, may design and use a multi-part affidavit form  
8 that is imprinted upon or attached to the provisional ballot  
9 envelope described in subsection (b). If a county clerk or  
10 board of election commissioners elects to design and use its  
11 own multi-part affidavit form, then the county clerk or board  
12 of election commissioners shall establish a mechanism for  
13 accepting any information the provisional voter has supplied to  
14 the election judge to support his or her claim that he or she  
15 is a duly registered voter. In all other respects, a county  
16 clerk or board of election commissioners shall establish  
17 procedures consistent with subsection (b).

18 (d) The county clerk or board of election commissioners, as  
19 the case may be, shall use the completed affidavit form  
20 described in subsection (b) to update the person's voter  
21 registration information in the State voter registration  
22 database and voter registration database of the county clerk or  
23 board of election commissioners, as the case may be. If a  
24 person is later determined not to be a registered voter based  
25 on Section 18A-15 of this Code, then the affidavit shall be  
26 processed by the county clerk or board of election  
27 commissioners, as the case may be, as a voter registration  
28 application.

29 (Source: P.A. 93-574, eff. 8-21-03; 93-1071, eff. 6-1-05.)

30 (10 ILCS 5/18A-15)

31 Sec. 18A-15. Validating and counting provisional ballots.

32 (a) The county clerk or board of election commissioners  
33 shall complete the validation and counting of provisional  
34 ballots within 14 calendar days of the day of the election. The  
35 county clerk or board of election commissioners shall have 7

1 calendar days from the completion of the validation and  
2 counting of provisional ballots to conduct its final canvass.  
3 The State Board of Elections shall complete within 31 calendar  
4 days of the election or sooner if all the returns are received,  
5 its final canvass of the vote for all public offices.

6 (b) If a county clerk or board of election commissioners  
7 determines that all of the following apply, then a provisional  
8 ballot is valid and shall be counted as a vote:

9 (1) The provisional voter cast the provisional ballot  
10 in the correct precinct based on the address provided by  
11 the provisional voter. Votes on a provisional ballot cast  
12 in the incorrect precinct that meets the other requirements  
13 of this subsection shall be valid and counted for all  
14 offices that are voted on in the resident precinct of the  
15 voter that are present on the ballot, and the provisional  
16 voter's affidavit shall serve as a change of address  
17 request by that voter for registration purposes if it bears  
18 an address different from that in the records of the  
19 election authority;

20 (2) The affidavit executed by the provisional voter  
21 pursuant to subsection (b) (2) of Section 18A-5 contains, at  
22 a minimum, the provisional voter's first and last name,  
23 house number and street name, and signature or mark ~~18A-10~~  
24 ~~is properly executed;~~ and

25 (3) the provisional voter is a registered voter based  
26 on information available to the county clerk or board of  
27 election commissioners provided by or obtained from any of  
28 the following:

- 29 i. the provisional voter;  
30 ii. an election judge;  
31 iii. the statewide voter registration database  
32 maintained by the State Board of Elections;  
33 iv. the records of the county clerk or board of  
34 election commissioners' database; or  
35 v. the records of the Secretary of State.

36 (c) With respect to subsection (b) (3) of this Section, the

1 county clerk or board of election commissioners shall  
2 investigate whether each of the 5 types of information is  
3 available and record whether this information is or is not  
4 available. If one or more types of information is available,  
5 then the county clerk or board of election commissioners shall  
6 obtain all relevant information from all sources identified in  
7 subsection (b) (3) or until satisfied that the provisional voter  
8 is registered and entitled to vote. The county clerk or board  
9 of election commissioners shall use any information it obtains  
10 as the basis for determining the voter registration status of  
11 the provisional voter. If a conflict exists among the  
12 information available to the county clerk or board of election  
13 commissioners as to the registration status of the provisional  
14 voter, then the county clerk or board of election commissioners  
15 shall make a determination based on the totality of the  
16 circumstances. In a case where the above information equally  
17 supports or opposes the registration status of the voter, the  
18 county clerk or board of election commissioners shall decide in  
19 favor of the provisional voter as being duly registered to  
20 vote. If the statewide voter registration database maintained  
21 by the State Board of Elections indicates that the provisional  
22 voter is registered to vote, but the county clerk's or board of  
23 election commissioners' voter registration database indicates  
24 that the provisional voter is not registered to vote, then the  
25 information found in the statewide voter registration database  
26 shall control the matter and the provisional voter shall be  
27 deemed to be registered to vote. If the records of the county  
28 clerk or board of election commissioners indicates that the  
29 provisional voter is registered to vote, but the statewide  
30 voter registration database maintained by the State Board of  
31 Elections indicates that the provisional voter is not  
32 registered to vote, then the information found in the records  
33 of the county clerk or board of election commissioners shall  
34 control the matter and the provisional voter shall be deemed to  
35 be registered to vote. If the provisional voter's signature on  
36 his or her provisional ballot request varies from the signature

1 on an otherwise valid registration application solely because  
2 of the substitution of initials for the first or middle name,  
3 the election authority may not reject the provisional ballot.

4 (d) In validating the registration status of a person  
5 casting a provisional ballot, the county clerk or board of  
6 election commissioners shall not require a provisional voter to  
7 complete any form other than the affidavit executed by the  
8 provisional voter under subsection (b) (2) of Section 18A-5. In  
9 addition, the county clerk or board of election commissioners  
10 shall not require all provisional voters or any particular  
11 class or group of provisional voters to appear personally  
12 before the county clerk or board of election commissioners or  
13 as a matter of policy require provisional voters to submit  
14 additional information to verify or otherwise support the  
15 information already submitted by the provisional voter. The  
16 provisional voter may, within 2 calendar days after the  
17 election, submit additional information to the county clerk or  
18 board of election commissioners. This information must be  
19 received by the county clerk or board of election commissioners  
20 within the 2-calendar-day period.

21 (e) If the county clerk or board of election commissioners  
22 determines that subsection (b) (1), (b) (2), or (b) (3) does not  
23 apply, then the provisional ballot is not valid and may not be  
24 counted. The provisional ballot envelope containing the ballot  
25 cast by the provisional voter may not be opened. The county  
26 clerk or board of election commissioners shall write on the  
27 provisional ballot envelope the following: "Provisional ballot  
28 determined invalid."

29 (f) If the county clerk or board of election commissioners  
30 determines that a provisional ballot is valid under this  
31 Section, then the provisional ballot envelope shall be opened.  
32 The outside of each provisional ballot envelope shall also be  
33 marked to identify the precinct and the date of the election.

34 (g) The provisional ballots determined to be valid shall be  
35 added to the vote totals for the precincts from which they were  
36 cast in the order in which the ballots were opened. The county

1 clerk or board of election commissioners may, in the  
2 alternative, create a separate provisional-voter precinct for  
3 the purpose of counting and recording provisional ballots and  
4 adding the recorded votes to its official canvass. The  
5 validation and counting of provisional ballots shall be subject  
6 to the provisions of this Code that apply to pollwatchers. If  
7 the provisional ballots are a ballot of a punch card voting  
8 system, then the provisional ballot shall be counted in a  
9 manner consistent with Article 24A. If the provisional ballots  
10 are a ballot of optical scan or other type of approved  
11 electronic voting system, then the provisional ballots shall be  
12 counted in a manner consistent with Article 24B.

13 (h) As soon as the ballots have been counted, the election  
14 judges or election officials shall, in the presence of the  
15 county clerk or board of election commissioners, place each of  
16 the following items in a separate envelope or bag: (1) all  
17 provisional ballots, voted or spoiled; (2) all provisional  
18 ballot envelopes of provisional ballots voted or spoiled; and  
19 (3) all executed affidavits of the provisional ballots voted or  
20 spoiled. All provisional ballot envelopes for provisional  
21 voters who have been determined not to be registered to vote  
22 shall remain sealed. The county clerk or board of election  
23 commissioners shall treat the provisional ballot envelope  
24 containing the written affidavit as a voter registration  
25 application for that person for the next election and process  
26 that application. The election judges or election officials  
27 shall then securely seal each envelope or bag, initial the  
28 envelope or bag, and plainly mark on the outside of the  
29 envelope or bag in ink the precinct in which the provisional  
30 ballots were cast. The election judges or election officials  
31 shall then place each sealed envelope or bag into a box, secure  
32 and seal it in the same manner as described in item (6) of  
33 subsection (b) of Section 18A-5. Each election judge or  
34 election official shall take and subscribe an oath before the  
35 county clerk or board of election commissioners that the  
36 election judge or election official securely kept the ballots

1 and papers in the box, did not permit any person to open the  
2 box or otherwise touch or tamper with the ballots and papers in  
3 the box, and has no knowledge of any other person opening the  
4 box. For purposes of this Section, the term "election official"  
5 means the county clerk, a member of the board of election  
6 commissioners, as the case may be, and their respective  
7 employees.

8 (Source: P.A. 93-574, eff. 8-21-03.)

9 (10 ILCS 5/23-15.1)

10 Sec. 23-15.1. Production of ballot counting code ~~and~~  
11 ~~attendance of witnesses~~. All voting-system vendors shall,  
12 within 90 days after the adoption of rules or upon application  
13 for voting-system approval, place in escrow all computer code  
14 for its voting system, including the code for any Commercial  
15 Off the Shelf (COTS) software used in the system including  
16 operating system software, with the State Board of Elections.  
17 All computer codes placed in escrow with the State Board of  
18 Elections shall be public records available for inspection at  
19 the principal office of the State Board of Elections and  
20 electronically via the Internet. This requirement in no way  
21 prohibits vendors from charging any fees for the initial  
22 distribution or ongoing maintenance of their software.  
23 Notwithstanding any other provision of law to the contrary, no  
24 action required under this Code shall invalidate the copyright  
25 protections otherwise enjoyed by the owners or authors of those  
26 codes. The State Board of Elections shall promulgate rules to  
27 implement this Section. For purposes of this Section, the term  
28 "computer code" includes, but is not limited to, ballot  
29 counting source code, table structures, modules, program  
30 narratives, and other human readable computer instructions  
31 (whether compiled or not) used to count ballots. ~~Any computer~~  
32 ~~code submitted by vendors to the State Board of Elections shall~~  
33 ~~be considered strictly confidential and the intellectual~~  
34 ~~property of the vendors and shall not be subject to public~~  
35 ~~disclosure under the Freedom of Information Act.~~

1       ~~The State Board of Elections shall determine which software~~  
2 ~~components of a voting system it deems necessary to enable the~~  
3 ~~review and verification of the computer. The State Board of~~  
4 ~~Elections shall secure and maintain all proprietary computer~~  
5 ~~codes in strict confidence and shall make a computer code~~  
6 ~~available to authorized persons in connection with an election~~  
7 ~~contest or pursuant to any State or federal court order.~~

8       ~~In an election contest, each party to the contest may~~  
9 ~~designate one or more persons who are authorized to receive the~~  
10 ~~computer code of the relevant voting systems. The person or~~  
11 ~~persons authorized to receive the relevant computer code shall~~  
12 ~~enter into a confidentiality agreement with the State Board of~~  
13 ~~Elections and must exercise the highest degree of reasonable~~  
14 ~~care to maintain the confidentiality of all proprietary~~  
15 ~~information.~~

16       The State Board of Elections shall promulgate rules to  
17 provide for the security, review, and verification of computer  
18 codes. Verification includes, but is not limited to,  
19 determining that the computer code corresponds to computer  
20 instructions actually in use to count ballots. The State Board  
21 of Elections shall hire, contract with, or otherwise provide  
22 sufficiently qualified resources, both human and capital, to  
23 conduct the reviews with the greatest possible expectation of  
24 thoroughness, completeness, and effectiveness. The resources  
25 shall be independent of and have no business, personal,  
26 professional, or other affiliation with any of the system  
27 vendors currently or prospectively supplying voting systems to  
28 any county in the State of Illinois. Nothing in this Section  
29 shall impair the obligation of any contract between a  
30 voting-systems vendor and an election authority that provides  
31 access to computer code that is equal to or greater than that  
32 provided by this Section.

33       (Source: P.A. 93-574, eff. 8-21-03.)

34       (10 ILCS 5/24C-2)

35       Sec. 24C-2. Definitions. As used in this Article:

1 "Audit trail" or "audit capacity" means a continuous trail  
2 of evidence linking individual transactions related to the  
3 casting of a vote, the vote count and the summary record of  
4 vote totals, but which shall not allow for the identification  
5 of the voter. It shall permit verification of the accuracy of  
6 the count and detection and correction of problems and shall  
7 provide a record of each step taken in: defining and producing  
8 ballots and generating related software for specific  
9 elections; installing ballots and software; testing system  
10 readiness; casting and tabulating ballots; and producing  
11 images of votes cast and reports of vote totals. The record  
12 shall incorporate system status and error messages generated  
13 during election processing, including a log of machine  
14 activities and routine and unusual intervention by authorized  
15 and unauthorized individuals. Also part of an audit trail is  
16 the documentation of such items as ballots delivered and  
17 collected, administrative procedures for system security,  
18 pre-election testing of voting systems, and maintenance  
19 performed on voting equipment. All test plans, test results,  
20 documentation, and other records used to plan, execute, and  
21 record the results of the testing and verification, including  
22 all material prepared or used by Independent Testing  
23 Authorities or other third parties, shall be made part of the  
24 public record and shall be freely available via the Internet  
25 and paper copy to anyone. "Audit trail" or "audit capacity" ~~It~~  
26 also means that the voting system is capable of producing and  
27 shall produce immediately after a ballot is cast a permanent  
28 paper record of each ballot cast that shall be available as an  
29 official record for any recount, redundant count, or  
30 verification or retabulation of the vote count conducted with  
31 respect to any election in which the voting system is used.

32 "Ballot" means an electronic audio or video display or any  
33 other medium, including paper, used to record a voter's choices  
34 for the candidates of their preference and for or against  
35 public questions.

36 "Ballot configuration" means the particular combination of

1 political subdivision or district ballots including, for each  
2 political subdivision or district, the particular combination  
3 of offices, candidate names and public questions as it appears  
4 for each group of voters who may cast the same ballot.

5 "Ballot image" means a corresponding representation in  
6 electronic or paper form of the mark or vote position of a  
7 ballot.

8 "Ballot label" or "ballot screen" means the display of  
9 material containing the names of offices and candidates and  
10 public questions to be voted on.

11 "Central counting" means the counting of ballots in one or  
12 more locations selected by the election authority for the  
13 processing or counting, or both, of ballots. A location for  
14 central counting shall be within the territorial jurisdiction  
15 of the election authority unless there is no suitable  
16 tabulating equipment available within his territorial  
17 jurisdiction. However, in any event a counting location shall  
18 be within this State.

19 "Computer", "automatic tabulating equipment" or  
20 "equipment" includes apparatus necessary to automatically  
21 examine and count votes as designated on ballots, and data  
22 processing machines which can be used for counting ballots and  
23 tabulating results.

24 "Computer operator" means any person or persons designated  
25 by the election authority to operate the automatic tabulating  
26 equipment during any portion of the vote tallying process in an  
27 election, but shall not include judges of election operating  
28 vote tabulating equipment in the precinct.

29 "Computer program" or "program" means the set of operating  
30 instructions for the automatic tabulating equipment that  
31 examines, records, displays, counts, tabulates, canvasses and  
32 prints votes recorded by a voter on a ballot and that displays  
33 any and all information, graphics, or other visual or audio  
34 information or images used in presenting voting information,  
35 instructions, or voter choices.

36 "Direct recording electronic voting system", "voting

1 system" or "system" means the total combination of mechanical,  
2 electromechanical or electronic equipment, programs and  
3 practices used to define ballots, cast and count votes, report  
4 or display election results, maintain or produce any audit  
5 trail information, identify all system components, test the  
6 system during development, maintenance and operation, maintain  
7 records of system errors and defects, determine specific system  
8 changes to be made to a system after initial qualification, and  
9 make available any materials to the voter such as notices,  
10 instructions, forms or paper ballots.

11 "Edit listing" means a computer generated listing of the  
12 names of each candidate and public question as they appear in  
13 the program for each precinct.

14 "In-precinct counting" means the recording and counting of  
15 ballots on automatic tabulating equipment provided by the  
16 election authority in the same precinct polling place in which  
17 those ballots have been cast.

18 "Marking device" means any device approved by the State  
19 Board of Elections for marking a ballot so as to enable the  
20 ballot to be recorded, counted and tabulated by automatic  
21 tabulating equipment.

22 "Permanent paper record" means a paper record upon which  
23 shall be printed in human readable form the votes cast for each  
24 candidate and for or against each public question on each  
25 ballot recorded in the voting system. Each permanent paper  
26 record shall be printed by the voting device upon activation of  
27 the marking device by the voter and shall contain a unique,  
28 randomly assigned identifying number that shall correspond to  
29 the number randomly assigned by the voting system to each  
30 ballot as it is electronically recorded.

31 "Redundant count" means a verification of the original  
32 computer count of ballots by another count using compatible  
33 equipment or other means as part of a discovery recount,  
34 including a count of the permanent paper record of each ballot  
35 cast by using compatible equipment, different equipment  
36 approved by the State Board of Elections for that purpose, or

1 by hand.

2 "Separate ballot" means a separate page or display screen  
3 of the ballot that is clearly defined and distinguishable from  
4 other portions of the ballot.

5 "Voting device" or "voting machine" means an apparatus that  
6 contains the ballot label or ballot screen and allows the voter  
7 to record his or her vote.

8 (Source: P.A. 93-574, eff. 8-21-03.)

9 (10 ILCS 5/24C-2.5 new)

10 Sec. 24C-2.5. Official paper vote; random audit.

11 (a) All voting systems submitted for approval under this  
12 Article must produce a voter verifiable paper ballot that is  
13 then counted by a machine not connected either physically or  
14 electronically to the machine that produces the paper ballot.  
15 The ballot as counted by this separate machine shall constitute  
16 the actual vote of the voter.

17 (b) An election authority using a voting system subject to  
18 this Article must conduct a random audit of the system  
19 consisting of the recount of votes cast in 5% of the precincts  
20 using the system.

21 (10 ILCS 5/24C-12)

22 Sec. 24C-12. Procedures for Counting and Tallying of  
23 Ballots.

24 In an election jurisdiction where a Direct Recording  
25 Electronic Voting System is used, the following procedures for  
26 counting and tallying the ballots shall apply:

27 Before the opening of the polls, the judges of elections  
28 shall assemble the voting equipment and devices and turn the  
29 equipment on. The judges shall, if necessary, take steps to  
30 activate the voting devices and counting equipment by inserting  
31 into the equipment and voting devices appropriate data cards  
32 containing passwords and data codes that will select the proper  
33 ballot formats selected for that polling place and that will  
34 prevent inadvertent or unauthorized activation of the

1 poll-opening function. Before voting begins and before ballots  
2 are entered into the voting devices, the judges of election  
3 shall cause to be printed a record of the following: the  
4 election's identification data, the device's unit  
5 identification, the ballot's format identification, the  
6 contents of each active candidate register by office and of  
7 each active public question register showing that they contain  
8 all zero votes, all ballot fields that can be used to invoke  
9 special voting options, and other information needed to ensure  
10 the readiness of the equipment and to accommodate  
11 administrative reporting requirements. The judges must also  
12 check to be sure that the totals are all zeros in the counting  
13 columns and in the public counter affixed to the voting  
14 devices.

15 After the judges have determined that a person is qualified  
16 to vote, a voting device with the proper ballot to which the  
17 voter is entitled shall be enabled to be used by the voter. The  
18 ballot may then be cast by the voter by marking by appropriate  
19 means the designated area of the ballot for the casting of a  
20 vote for any candidate or for or against any public question.  
21 The voter shall be able to vote for any and all candidates and  
22 public measures appearing on the ballot in any legal number and  
23 combination and the voter shall be able to delete, change or  
24 correct his or her selections before the ballot is cast. The  
25 voter shall be able to select candidates whose names do not  
26 appear upon the ballot for any office by entering  
27 electronically as many names of candidates as the voter is  
28 entitled to select for each office.

29 Upon completing his or her selection of candidates or  
30 public questions, the voter shall signify that voting has been  
31 completed by activating the appropriate button, switch or  
32 active area of the ballot screen associated with end of voting.  
33 Upon activation, the voting system shall record an image of the  
34 completed ballot, increment the proper ballot position  
35 registers, and shall signify to the voter that the ballot has  
36 been cast. Upon activation, the voting system shall also print

1 a permanent paper record of each ballot cast as defined in  
2 Section 24C-2 of this Code. This permanent paper record ~~shall~~  
3 ~~either be self-contained within the voting device or~~ shall be  
4 printed in a clear, readily readable format that can be easily  
5 reviewed by the voter for completeness and accuracy and then  
6 deposited by the voter into a secure ballot box. No permanent  
7 paper record shall be removed from the polling place except by  
8 election officials as authorized by this Article. All permanent  
9 paper records shall be preserved and secured by election  
10 officials in the same manner as paper ballots and shall be  
11 available as an official record for any recount, redundant  
12 count, or verification or retabulation of the vote count  
13 conducted with respect to any election in which the voting  
14 system is used. The voter shall exit the voting station and the  
15 voting system shall prevent any further attempt to vote until  
16 it has been properly re-activated. If a voting device has been  
17 enabled for voting but the voter leaves the polling place  
18 without casting a ballot, 2 judges of election, one from each  
19 of the 2 major political parties, shall spoil the ballot.

20 Throughout the election day and before the closing of the  
21 polls, no person may check any vote totals for any candidate or  
22 public question on the voting or counting equipment. Such  
23 equipment shall be programmed so that no person may reset the  
24 equipment for reentry of ballots unless provided the proper  
25 code from an authorized representative of the election  
26 authority.

27 The precinct judges of election shall check the public  
28 register to determine whether the number of ballots counted by  
29 the voting equipment agrees with the number of voters voting as  
30 shown by the applications for ballot. If the same do not agree,  
31 the judges of election shall immediately contact the offices of  
32 the election authority in charge of the election for further  
33 instructions. If the number of ballots counted by the voting  
34 equipment agrees with the number of voters voting as shown by  
35 the application for ballot, the number shall be listed on the  
36 "Statement of Ballots" form provided by the election authority.

1           The totals for all candidates and propositions shall be  
2 tabulated; and 4 copies of a "Certificate of Results" shall be  
3 printed by the automatic tabulating equipment; one copy shall  
4 be posted in a conspicuous place inside the polling place; and  
5 every effort shall be made by the judges of election to provide  
6 a copy for each authorized pollwatcher or other official  
7 authorized to be present in the polling place to observe the  
8 counting of ballots; but in no case shall the number of copies  
9 to be made available to pollwatchers be fewer than 4, chosen by  
10 lot by the judges of election. In addition, sufficient time  
11 shall be provided by the judges of election to the pollwatchers  
12 to allow them to copy information from the copy which has been  
13 posted.

14           If instructed by the election authority, the judges of  
15 election shall cause the tabulated returns to be transmitted  
16 electronically to the offices of the election authority via  
17 modem or other electronic medium.

18           The precinct judges of election shall select a bi-partisan  
19 team of 2 judges, who shall immediately return the ballots in a  
20 sealed container, along with all other election materials and  
21 equipment as instructed by the election authority; provided,  
22 however, that such container must first be sealed by the  
23 election judges with filament tape or other approved sealing  
24 devices provided for the purpose in a manner that the ballots  
25 cannot be removed from the container without breaking the seal  
26 or filament tape and disturbing any signatures affixed by the  
27 election judges to the container. The election authority shall  
28 keep the office of the election authority, or any receiving  
29 stations designated by the authority, open for at least 12  
30 consecutive hours after the polls close or until the ballots  
31 and election material and equipment from all precincts within  
32 the jurisdiction of the election authority have been returned  
33 to the election authority. Ballots and election materials and  
34 equipment returned to the office of the election authority  
35 which are not signed and sealed as required by law shall not be  
36 accepted by the election authority until the judges returning

1 the ballots make and sign the necessary corrections. Upon  
2 acceptance of the ballots and election materials and equipment  
3 by the election authority, the judges returning the ballots  
4 shall take a receipt signed by the election authority and  
5 stamped with the time and date of the return. The election  
6 judges whose duty it is to return any ballots and election  
7 materials and equipment as provided shall, in the event the  
8 ballots, materials or equipment cannot be found when needed, on  
9 proper request, produce the receipt which they are to take as  
10 above provided.

11 (Source: P.A. 93-574, eff. 8-21-03.)

12 Section 95. No acceleration or delay. Where this Act makes  
13 changes in a statute that is represented in this Act by text  
14 that is not yet or no longer in effect (for example, a Section  
15 represented by multiple versions), the use of that text does  
16 not accelerate or delay the taking effect of (i) the changes  
17 made by this Act or (ii) provisions derived from any other  
18 Public Act.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.